

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of : RENEE FRENGUT
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Andre Boyce
Art Unit : 3623
Our File No. : 1017.8002

APPELLANTS' BRIEF IN ACCORDANCE WITH 37 C.F.R. §41.37(c)

Appeal from the Examiner,

Andre Boyce, in and for

the United States Patent and Trademark Office

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I. REAL PARTY IN INTEREST

The party named in the caption, namely, Renee Frengut, the inventor has assigned the application subject to this appeal to EQUALITATIVE RESEARCH, INC., who is the real party in interest, i.e. the owner at the time the brief is being filed.

II. RELATED APPEALS AND INTERFERENCES

Applicant/Appellant and Appellant's legal representative, are unaware of any other appeal(s) or interference(s) which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1, 5, 7, 10, 12-18, 21, 22, 24-26, 32, 33, 3, 36, 40-42, 44-52 and 54-58 are pending in this application and currently stand rejected. Applicant is appealing the rejection of these claims. The appealed claims are set forth in Appendix A to this Brief.

IV. STATUS OF AMENDMENTS

No Amendments after Final have been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

As to Independent Claim 1, the claimed invention provides a method for conducting a live study over the Internet with one or more participants (Page 6, lines 2-5). The method comprises the steps of:

(a) selecting one or more individuals for a specific online live study being held at a website on the Internet at a certain time (Page 6, lines 11-13 and Page 7, lines 3-5);

(b) providing each individual with sign-in information for the specific online live study (Page 7, lines 3-5);

(c) selecting a moderator for conducting the specific online

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live study (Page 6, line 6), wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator (Page 7, lines 3-11), said moderator and said one or more individuals independent from each other and not from a same organization or business entity (Page 7, lines 19-21;

(d) providing each of said one or more individuals and said moderator with an audio/video capture mechanism that is connectable to a machine that permits live audiovisual two-way images and communication across the Internet between said moderator and said one or more individuals (Page 7, lines 11-15);

(e) permitting said one or more individuals to participate in the specific online live study by allowing said one or more individuals to access the specific online live study by using their sign-in information at the website (Page 7, lines 11-12); and

(f) conducting the specific online live study at the website by capturing live video images of the individuals and moderator and live audio two way communications between and among the individuals and between and among the individuals and the moderator based on questions asked or stimuli shown by the moderator to the individuals over the Internet (Page 6, lines 13-21).

As to Independent Claim 12, the claimed invention provides a method for conducting a live study from a host machine over the Internet (Page 6, lines 2-5). The method comprises the steps of

selecting a set of candidates to participate in a live online study with a host to be conducted over the Internet (Page 6, line 11-13 and Page 7, lines 3-5), wherein the set of

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candidates are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the set of candidates with the host (Page 7, lines 3-11), said set of candidates and said host are independent from each other and not from a same organization or business entity (Page 7, lines 19-21);

inviting the set of candidates to access the live online study over the Internet at a predetermined time interval (Page 7, lines 3-5), wherein the candidates access the live online study through sign-in information provided to candidates prior to a starting time for the live study (Page 7, lines 11-12); wherein the candidates communicate with the host and/or each other using a respective user machine interface having a live audio/video two-way image and communication mechanism connected thereto (Page 7, lines 11-15), wherein each user machine is located geographically remote from the host (Page 7, lines 14-18);

initiating live two-way audio communications and video images between and among the host and/or the geographically remote user machines over the Internet with at least a set of participants comprising a first portion of the set of candidates (Page 7, lines 19-20), during the predetermined time interval in substantially real time (Page 9, lines 8-11);

exhibiting over the Internet a stimulus to the participants (Page 6, lines 15-19 and Page 11, lines 14-16); and

accumulating live participant images and responses to the stimulus over the Internet at the host (Page 14, lines 6-10).

As to independent claim 21, the claimed invention provides a system for conducting a live online study with one or more participants over the Internet (Page 6, lines 2-5). The system comprises:

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a moderator device having Internet access (Page 12, lines 16-18), an audio/video two-way communication mechanism (Page 12, lines 18-19), and an input mechanism wherein a moderator submits stimulus to (Page 11, lines 13-16), and conduct live online two-way audiovisual communications with, users over the Internet (Page 12, line 21; Page 13, line 2);

a user device for each user participating in the live online study over the Internet (Page 13, lines 16-17), said user device having Internet access (Page 13, line 17), an audio/video two-way communication mechanism (Page 13, lines 19-20), and an input mechanism wherein users provide live audio and video responses over the Internet in response to the moderator's submitted stimulus and conduct live online two-way audio and video communications over the Internet with the moderator and other users (Page 14, lines 6-7), wherein each user device is located geographically remote from the moderator device and in communication with each other and the moderator device through the Internet (Page 7, lines 14-18); and

a host machine communicating over the Internet and having a database accumulating the user's live online audio and video responses to the moderator's submitted stimulus or live questions posed by the moderator or other users (Page 12, lines 20-21)

wherein the users are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the users with the moderator (Page 7, lines 3-11), said moderator and said users independent from each other and not from a same organization or business entity (Page 7, lines 19-21).

As to independent claim 41, the claimed invention provides a method for conducting a live online study over the Internet (Page

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6, lines 2-5) with one or more participants and a moderator with the moderator having no business relationship or business association with said one or more participants (Page 7, lines 3-11). The method comprises the steps of:

(a) selecting one or more participants for a live online study with a moderator based on the one or more participants' willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator (Page 7, lines 3-11), said moderator and said one or more participants independent from each other and not from a same organization or business entity (Page 7, lines 19-21);

(b) providing each participant for the live online study and a the moderator for the live online study with a video capture mechanism that is connectable to a machine that permits live two-way video over the Internet (Page 13, line 19-20 and Page 12, line 21; Page 13, line 2);

(c) providing each participant and said moderator with live two-way audio communication capabilities (Page 13, lines 19-20 and Page 12, lines 18-19); and

(d) conducting a live online study over the Internet by capturing live two-way video of the participants and moderator over the Internet and capturing live two way audio communications between and among the participants and between and among the participants and the moderator (Page 12, line 13 - Page 13, line 2).

As to independent claim 42, the claimed invention provides a method for conducting a live online study over the Internet with one or more participants (Page 6, lines 2-5). The method comprises the steps of:

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(a) permitting one or more individuals to access and participate in a specific live online study over the Internet by receiving over the Internet at a scheduled time period sign-in information associated with the specific live study from the one or more individuals (Page 7, lines 3-5);

(b) providing a moderator for conducting the live online study over the Internet with the one or more individuals (Page 12, line 15); and

(c) permitting live two-way video and live two-way audio communications over the Internet between the one or more individuals and the moderator during the live online study (Page 12, lines 16-19 and Page 13, lines 19-20);

wherein the live online study is conducted with the one or more individuals and moderator even where the one or more individuals are located geographically remote from each other or the moderator (Page 12, line 13; Page 13, line 2), wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator (Page 7, lines 3-11), said moderator and said one or more individuals independent from each other and not from a same organization or business entity (Page 7, lines 19-21).

As to independent claim 52, the claimed invention provides a method for conducting a live online market research or focus group study at a website on the Internet with one or more participants and a moderator (Page 6, lines 2-5), said method comprising the steps of:

(a) designating a website as an online location for hosting a live market research or focus group study over the Internet

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(Page 13, line 20; Page 14, line 1);

(b) permitting one or more individuals to access and participate over the Internet in the online market research or focus group study hosted at the website by receiving over the Internet correct sign-in information for the online market research or focus group study from the one or more individuals (Page 7, lines 3-5);

(c) providing a moderator for conducting the live online market research or focus group study over the Internet with the one or more individuals (Page 12, line 15);

(d) permitting live two-way video and live two-way audio communications over the Internet between the one or more individuals and the moderator during the live online market research or focus group study (Page 12, lines 16-19 and Page 13, lines 19-20); and

(e) permitting a client to access and observe an ongoing live online study over the Internet unobtrusively to the one or more individuals (Page 13, lines 3-8); wherein said client is associated with a subject matter of the market research or focus group study (Page 12, lines 15-16);

wherein the live online market research or focus group study is conducted with the one or more individuals and moderator even where the one or more individuals are located geographically remote from each other, the moderator or the client (Page 12, line 13; Page 13, line 2);

wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more individuals with the moderator (Page 7, lines 3-11), said moderator and said one or more individuals independent from

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each other and not from a same organization or business entity (Page 7, lines 19-21), wherein the client and said one or more individuals independent from each other and not from a same organization or business entity (Page 7, lines 19-21); wherein an owner or operator of the website is independent from the one or more individuals and not from a same organization or business entity and the owner or operator of the website is independent from the client and not from a same organization or business entity (Page 12, line 13; Page 13, line 2).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1, 7, 12, 13, 16, 18, 21, 22, 24-26, 32, 33, 35, 36, 40-42, 44-52 and 54-58 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Ludwig et al, U.S. Patent No. 6,237,025 (hereinafter 'Ludwig'), in view of e-Focusgroups.com, March 5, 2000 version of the website (hereinafter 'e-Focusgroups').

2. Whether claims 5 and 14 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Ludwig, in view of e-Focusgroups, in further view of Thomas, US Publication No. 2002/0002482 (hereinafter 'Thomas').

3. Whether claims 10, 15 and 17 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Ludwig in view of e-Focusgroups, in further view of Davis, U.S. Patent No. 6,,256,663 (hereinafter "Davis").

VII. ARGUMENT

A. GROUND OF REJECTION NO. 1

1. Whether claims 1, 7, 12, 13, 16, 18, 21, 22, 24-26, 32, 33, 35, 36, 40-42, 44-52 and 54-58 are properly rejected under 35

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U.S.C. §103(a) as being unpatentable over Ludwig, in view of e-Focusgroups.

As to claims subject to this Appeal, Claims 1, 12, 21, 41, 42 and 52 are independent claims. Dependent claims 7 and 35 stand or fall with Independent Claim 1. Independent basis for the allowance of claims 10, 32 and 33 are provided in the argument. Accordingly, claims 10, 32 and 33 do not stand or fall with Independent Claim 1. Dependent claims 13, 16 and 18 stand or fall with Independent Claim 12. Independent basis for allowance of claims 14, 15, 17 and 36 are provided in the argument and these claims do not stand or fall with Independent Claim 12. Dependent claims 24-26 and 40 stand or fall with Independent Claim 21. Independent basis for allowance of claim 22 is provided in the argument and this claim does not stand or fall with Independent Claim 21. Dependent claim 44-50 do not stand or fall with Independent Claim 42 and independent basis for allowance of these claims is provided in the argument. Dependent claim 51 stands or falls with dependent claim 47. Dependent claims 54-58 do not stand or fall with Independent Claim 52 and independent basis for allowance of these claims are provided in the argument.

Applicant incorporates by reference all of its arguments concerning Ludwig previously made by Applicant in earlier Amendments responding to Ludwig.

The Examiner acknowledges that Ludwig fails to disclose:

- (a) conducting a specific online study being held at a website on the Internet at a certain time;
- (b) that each individual (participant) is provided with sign-in information for the specific online study;
- (c) that a moderator is selected for conducting the specific online live study;

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- (d) that the individuals (participants) are selected based on their willingness to participate in a live online study and not based on any business relationship or business connection of the individuals (participants) with the moderator;
- (e) that the moderator and the individuals (participants) are independent from each other and are not from the same organization or business entity; and
- (f) that the individuals (participants) are permitted to participate in the specific online live study by being allowed to access the specific online live study by using their sign-in information at the website.

All of the deficiencies in Ludwig evidences that the primary reference Ludwig basically has nothing to do with Applicant's claimed invention.

As previously argued by Applicant, Ludwig requires a LAN and WAN computer configuration which is a private computer network of an organization for communicating and conferences between members of the organization. In Ludwig all of the people to the conference are from the same business entity or organization and do in fact have a prior connection and are not independent. Ludwig does not provide, nor does Ludwig desire, conferencing over a public network like the Internet. Ludwig would also not desire non-company individuals having access to sign into Ludwig's LAN/WAN computer configuration.

Ludwig requires that the participants are all from the same business entity or organization or has some business relationship. As Ludwig is basically a internal company system there is no motivation, teaching or suggestion to go outside the company setting and begin using Ludwig's system for other purposes. Nor is

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there any motivation to give non-company employees password information permitting them to sign into Ludwig's system.

e-Focusgroups merely provides chat-based focus groups and surveys on the web. The word 'chat' does not refer to audible talking, but refers to the computer world of typing answers to questions. This back and forth written correspondence does yield the live audio visual online study provided by Applicant's claimed system and method. Applicant's claimed method and system recreates the conventional focus group study online, where the moderator and participants see each other and verbally communicate. The conventional focus group study is not being recreated online by e-Focusgroups.

The Examiner's rejection states that it would be merely obvious to expand the Ludwig WAN communication to include the Internet. However, such blanket conclusions fails to take into all necessary security and other complexities for operating over the Internet. E-Focusgroups fails to provide any teaching as to how it actually operates on the Internet.

Additionally, E-Focusgroups teaches away from conducting an audio/visual live study on the Internet. As it specifically states that 'Another advantage of Online Focus Groups is that since the respondents can't see one another, they tend to speak very freely. In addition, respondents who would be quiet in a traditional Focus Group tend to come out more in this situation.'

Applicant also notes that the priority filing date for Ludwig is October 1, 1993. At the time of e-Focusgroups in 2001, Ludwig's technology had been in existence for at least eight years. However, the developer of e-Focusgroups (who would be one having ordinary skill in the art with respect to Applicant's invention) did not expand on his web-based chat studies by taking Ludwig's

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technology and using such technology to conduct live audio/visual studies on the Internet. Three reasons could explain why: (1) Ludwig's technology could not be dused without significant modifications to perform Applicant's claimed invention; (2) the Ludwig technology is highly unrelated to the business of e-Focusgroups that he would not be normally led to Ludwig, without hindsight; and/or (3) as mentioned above e-Focusgroups teaches away from having a live online audio/visual study over the Internet and prefers the benefits of not having the respondents seeing each other as taught by Applicant's claimed invention.

As to claims 22, 33, 47-50, 53 and 56-58, the Examiner admits that Ludwig does not disclose (a) a sponsoring client device having distributed network access wherein a sponsoring client is permitted to access the live online study while the live online study is ongoing unobtrusively to each user and can observe the submitted moderator stimuli, (b) that the sponsoring client and users (individual, participants) are independent from each other other and not from a same organization or business entity. E-Focusgroup does not provide the technology for modifying Ludwig such that the sponsoring client can watch the live ongoing audio/visual study without the participants knowing that they are being watch by the client (unobstrusively). Ludwig would have to be specifically modified to provide this claimed feature. Merely combining e-Focusgroup with Ludwig stills fails to teach this claimed feature. E-Focusgroup does not permit the client to view the live images of the respondents.

As also claimed in certain claims, Applicant's claimed website is owned or operated by individuals who are also independent from the client. In Ludwig, the LAN/WAN is owned by the business entity, not a separate independent entity.

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Furthermore, as mentioned above the conference participants for Ludwig are all from the same company, often the subject matter of their conferences can involve highly sensitive trade secret or confidential information. Thus, by using a LAN/WAN configuration, Ludwig ensures that the information remains internally and cannot be compromised. With this potentially secretive information being discussed, the Ludwig company would not turn to an independently owned third party website (e-focusgroup.com, etc.) to run its conference. Even if the conference could be secured, individuals from the third party website could still access the information.

Also, by operating over the Internet Ludwig would then be exposed to hackers, viruses, unwanted software being downloaded, cookies, etc. All of these issues would require modification and/or additions to Ludwig to prevent breaches or damage to the Ludwig system. Thus, Ludwig benefits significantly by not using the Internet, and by solely using a LAN/WAN configuration. A reading of Ludwig readily reveals that Ludwig was not looking for alternatives to using a LAN/WAN communication network, but rather was looking for ways to improve LAN/WAN technology so that it could be used by more than a few workstations. See Col. 2, lines 42-50.

Additionally, as mentioned above, the participants to a Ludwig conference are from the same organization or business entity that have gotten together to discuss a company issue. Thus, there would be no motivation to block certain participants from hearing communications of other participants (i.e. Applicant's claimed client communications). As such, there is no motivation, teaching or suggestion in Ludwig for having certain communications not heard by the other participants.

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Furthermore, requiring participants to have sign-in and password information to join the conference only complicates Ludwig. Thus, there is no motivation, teaching or suggestion for Applicant's claimed limitation. As Ludwig is a LAN/WAN network, the leader for the conference merely selects the participants from his computer rolodex. There is no reason to complicate this convenient feature of Ludwig as suggested by the Examiner.

Lastly, Applicant submits that the Examiner failed to give any weight to the significant secondary considerations raised by Applicant in her Rule 132 Declaration (November 22, 2005), which along with its exhibits are incorporated by reference in their entirety. Applicant also incorporates by references its November 3, 2004 Declaration and Exhibits thereto also in their entirety. Specifically, in the 11/22/05 Declaration Applicant declared that: (The Declarations and Exhibits can be found in the attached Evidence Appendix)

9. It would not have been obvious to a person having ordinary skill in the art of my invention to modify the cited Ludwig patent as suggested by the Examiner to arrive at my claimed invention. As mentioned above, and in my previous Declaration, significant time, resources and energy were required from me before I was able to finally create my working system, which is the subject matter of my current patent claims.

10. Recently, which is well after the launching of my company and filing of my patent application, other companies in the market research industry are now copying my technology by now offering live audiovisual market research services over the Internet.

11. These companies had previously utilized some type of video technology, which was dissimilar to my claimed invention. FocusVision (a market

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research support company) has been in business since 1990 utilizing an ISDN closed circuit video transmission using a Polycom system for the transmission of focus groups to one of their installations for remote viewing of a market research event. It, however, was not until June of 2005 that it announced in advertising that it now has the major breakthrough capability to provide the exact model as my current claimed invention details. See Exhibit A to the Declaration.

12. FocusVision is a very large company in my industry with much more resources available to it as compared to myself and my company.

13. In its advertising, FocusVision touts itself (see enclosed advertising) as 'the leader in video technology for the Market Research industry'. If indeed the current invention was so obvious over the various patents cited by the Examiner, then the self-proclaimed industry leader with all of their available resources and who have been in existence prior to the issuance of the Ludwig patent and who were experiencing the same limitations of traditional market research, should have developed my claimed invention prior to my conception.

14. Another industry company also launched this exact model to my claimed invention in February, 2005, hailing it as the most revolutionary advancement in conducting market research. See Exhibit B to this Declaration.

15. The fact that these companies and others, with knowledge of my company and its services, only this year began to offer their same methodology and capability to the subject matter of my claimed invention, is evidence that my claimed invention is not obvious, but rather unobvious.

16. As further evidence that my claimed invention is not obvious I also rely on the many articles, awards and testimonials that the claimed invention has received from the market research industry and

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its practicing professionals as well as related technology awards and publications. These various items are attached hereto as Exhibits C-6.

17. Lastly, many in my industry actually taught away from the subject matter of my claimed invention. See First Paragraph of Exhibit D, 'it is essential the marketing community not become too enthralled with using the Internet to conduct qualitative research; it clearly is not a viable substitute for well-run traditional focus groups.'

When taken these secondary considerations into evidence, in addition to the above noted arguments, Applicant respectfully submits that it has shown that the claimed invention is not obvious and that the claims should be allowed. Accordingly, Applicant respectfully traverses the Examiner's rejection in Grounds of Rejection No. 1 and asks that such rejection be reversed.

B. GROUND OF REJECTION NO. 2

Whether claims 5 and 14 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Ludwig, in view of e-Focusgroups, in further view of Thomas.

Applicant respectfully incorporates by reference its above arguments. Thomas fails to correct all of the above deficiencies noted above. There would be no motivation to pay Ludwig's employees additional compensation for attending a conference that they are already getting paid for as part of their job duties.

Accordingly, Applicant respectfully requests that the Board reverse the Examiner's rejections of claims 5 and 14.

C. GROUND OF REJECTION NO. 3

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Whether claims 10, 15 and 17 are properly rejected under 35 U.S.C. §103(a) as being unpatentable over Ludwig in view of e-Focusgroups, in further view of Davis.

Applicant respectfully incorporates by reference its above arguments. Davis also fails to correct all of the deficiencies of Ludwig and E-focusgroup discussed above. Davis also merely provides chat text messages and is not even concern with a real time live study.

Thus, Applicant respectfully requests that the Board reverse the Examiner's rejection of claims 10, 15 and 17

In view of the above arguments, Applicant/Appellant respectfully submits that all pending claims are properly allowable over the references relied upon by the Examiner for the rejections.

WHEREFORE, Applicant respectfully submits that the appealed claims are allowable over the prior art of record and Applicant respectfully requests the Board to reverse the Examiner's rejections, and pass this case to allowance.

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Any additional charges, including Extensions of Time, please
bill our Deposit Account No. 503180.

Respectfully submitted,

DANIEL S. POLLEY, P.A.

By: /Daniel S. Polley/
Daniel S. Polley #34,902

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CERTIFICATE OF E-MAILING

I hereby certify that this correspondence, and any attachments thereto, is being filed via electronic
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/betty bernal/
Signature

April 14, 2009
Date

VIII. CLAIMS APPENDIX

1. A method for conducting a live study over the Internet with one or more participants, said method comprising the steps of:

(a) selecting one or more individuals for a specific online live study being held at a website on the Internet at a certain time;

(b) providing each individual with sign-in information for the specific online live study;

(c) selecting a moderator for conducting the specific online live study, wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator, said moderator and said one or more individuals independent from each other and not from a same organization or business entity;

(d) providing each of said one or more individuals and said moderator with an audio/video capture mechanism that is connectable to a machine that permits live audiovisual two-way images and communication across the Internet between said moderator and said one or more individuals;

(e) permitting said one or more individuals to participate in the specific online live study by allowing said one or more individuals to access the specific online live study by using their sign-in information at the website; and

(f) conducting the specific online live study at the website by capturing live video images of the individuals and moderator and live audio two way communications between and among the individuals and between and among the individuals and the moderator based on questions asked or stimuli shown by the moderator to the individuals over the Internet.

5. The method as in claim 32, including the additional steps of: paying each individual a first sum for participating in the live study; and paying a non-selected remainder portion of the

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candidates a second sum which is less in monetary amount than the first sum.

7. The method as in claim 1, including the additional conducting step of: displaying a stimulus over the Internet to the individuals over the Internet and receiving over the Internet one or more individual responses to the stimulus.

10. The method as in claim 7, including the additional step of officiating a follow-up interview with an individual who participated in the specific online live study, wherein the moderator displays additional stimulus over the Internet and receives additional responses over the Internet from the individual in response to the additional stimulus.

12. A method for conducting a live study from a host machine over the Internet, comprising the steps of:

selecting a set of candidates to participate in a live online study with a host to be conducted over the Internet, wherein the set of candidates are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the set of candidates with the host, said set of candidates and said host are independent from each other and not from a same organization or business entity;

inviting the set of candidates to access the live online study over the Internet at a predetermined time interval, wherein the candidates access the live online study through sign-in information provided to candidates prior to a starting time for the live study; wherein the candidates communicate with the host and/or each other using a respective user machine interface having a live audio/video two-way image and communication mechanism connected thereto, wherein each user machine is located geographically remote from the host;

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initiating live two-way audio communications and video images between and among the host and/or the geographically remote user machines over the Internet with at least a set of participants comprising a first portion of the set of candidates, during the predetermined time interval in substantially real time;

exhibiting over the Internet a stimulus to the participants;
and

accumulating live participant images and responses to the stimulus over the Internet at the host.

13. The method of conducting a live online study as in claim 12, including the additional step of visually verifying over the Internet a presence of each participant throughout the live online study.

14. The method of conducting a live online study as in claim 13, including the additional step of paying the verified participants a first sum for participating in the live online study and paying a non-overlapping remainder portion of the set of candidates a second sum which is less in monetary amount than the first sum.

15. The method of conducting a live online study as in claim 12, including the additional step of officiating a follow-up interview over the Internet with a particular participant subset.

16. The method of conducting a live online study as in claim 12, including the additional step of selecting groups of participants for a predetermined stimulus, wherein the predetermined stimulus is shown to the participant group over the Internet.

17. The method of conducting a live online study as in claim 12, including the additional step of dynamically selecting a particular stimulus for transmission over the Internet to the

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participants in response to prior participant responses.

18. The method of conducting a live online study as in claim 12, including the additional step of tabulating results of the live online study.

21. A system for conducting a live online study with one or more participants over the Internet, comprising:

a moderator device having Internet access, an audio/video two-way communication mechanism, and an input mechanism wherein a moderator submits stimulus to, and conduct live online two-way audiovisual communications with, users over the Internet;

a user device for each user participating in the live online study over the Internet, said user device having Internet access, an audio/video two-way communication mechanism, and an input mechanism wherein users provide live audio and video responses over the Internet in response to the moderator's submitted stimulus and conduct live online two-way audio and video communications over the Internet with the moderator and other users, wherein each user device is located geographically remote from the moderator device and in communication with each other and the moderator device through the Internet; and

a host machine communicating over the Internet and having a database accumulating the user's live online audio and video responses to the moderator's submitted stimulus or live questions posed by the moderator or other users

wherein the users are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the users with the moderator, said moderator and said users independent from each other and not from a same organization or business entity.

22. The system as in claim 21, further comprising a sponsoring client device having Internet access wherein a

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sponsoring client is permitted to access the live online study while the live online study is ongoing unobtrusively to each user and can observe the submitted moderator stimuli, the submitted user responses, and audio/video two-way communications between and among one or more users and the moderator, wherein said sponsoring client and said users independent from each other and not from a same organization or business entity.

24. The system as in claim 21, wherein a user working from the user device further observes a live online audiovisual image of the user during the live online study.

25. The system as in claim 21, wherein a user working from the user device further conducts live online two-way audiovisual communications with one or more other users during the live online study.

26. The system as in claim 21, wherein the user working from the user device further observes a set of submitted participant responses during the live online study.

32. The method of claim 1 wherein said one or more individuals are selected from a group of candidates.

33. The method of claim 1 further comprising the step of permitting a client to access the website through sign-in information provided to the client to permit the client to view over the Internet the live online study while the live online study is ongoing; wherein the client is connected to the subject matter of the live online study, wherein the client and said one or more individuals independent from each other and not from a same organization or business entity.

35. The method of claim 1 further comprising the step of recording an audiovisual record of the live online study and delivering the audiovisual record to a client who is sponsoring the subject matter of the live online study.

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36. The method of claim 12 wherein a number of candidates selected being fewer than all candidates available for selection.

40. The system of claim 21 further including a medium for storing accumulated recordings of the live audio and video communications between and among the moderator and other users, a processor for evaluating user responses, and an engine outputting results based on the user responses.

41. A method for conducting a live online study over the Internet with one or more participants and a moderator with the moderator having no business relationship or business association with said one or more participants, said method comprising the steps of:

(a) selecting one or more participants for a live online study with a moderator based on the one or more participants' willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator, said moderator and said one or more participants independent from each other and not from a same organization or business entity;

(b) providing each participant for the live online study and a the moderator for the live online study with a video capture mechanism that is connectable to a machine that permits live two-way video over the Internet;

(c) providing each participant and said moderator with live two-way audio communication capabilities; and

(d) conducting a live online study over the Internet by capturing live two-way video of the participants and moderator over the Internet and capturing live two way audio communications between and among the participants and between and among the participants and the moderator.

42. A method for conducting a live online study over the

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Internet with one or more participants, said method comprising the steps of:

(a) permitting one or more individuals to access and participate in a specific live online study over the Internet by receiving over the Internet at a scheduled time period sign-in information associated with the specific live study from the one or more individuals;

(b) providing a moderator for conducting the live online study over the Internet with the one or more individuals; and

(c) permitting live two-way video and live two-way audio communications over the Internet between the one or more individuals and the moderator during the live online study;

wherein the live online study is conducted with the one or more individuals and moderator even where the one or more individuals are located geographically remote from each other or the moderator, wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more participants with the moderator, said moderator and said one or more individuals independent from each other and not from a same organization or business entity.

44. The method for conducting a live online study of claim 42 wherein said sign-in information is provided to each individual in advance of a scheduled date and time for the live online study.

45. The method for conducting a live online study of claim 42 wherein the live study is secured and held online at a website and the sign-in information is a user id and password for each individual and permits the individual with access to the secured live study.

46. The method for conducting a live online study of claim

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42 wherein said moderator is provided with sign-in information for accessing and participating in the live online study in advance of a scheduled date and time for the live online study.

47. The method for conducting a live online study of claim 42 further comprising the step of permitting a client to access and observe an ongoing live online study over the Internet unobtrusively to the one or more individuals, wherein the client and said one or more individuals independent from each other and not from a same organization or business entity.

48. The method for conducting a live online study of claim 47 further comprising the step of preventing the client from communicating with the one or more individuals through the live online study while the live online study is being conducted.

49. The method for conducting a live online study of claim 47 wherein said client is provided with sign-in information in advance of a scheduled date and time for the live online study in order to access and observe the ongoing live online study over the Internet.

50. The method for conducting a live online study of claim 47 further comprising the step of permitting the client to communicate with the moderator unobtrusively to the one or more individuals during the ongoing live online study.

51. The method for conducting a live online study of claim 47 wherein said client is connected to the subject matter of the live online study.

52. A method for conducting a live online market research or focus group study at a website on the Internet with one or more participants and a moderator, said method comprising the steps of:

(a) designating a website as an online location for hosting a live market research or focus group study over the Internet;

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(b) permitting one or more individuals to access and participate over the Internet in the online market research or focus group study hosted at the website by receiving over the Internet correct sign-in information for the online market research or focus group study from the one or more individuals;

(c) providing a moderator for conducting the live online market research or focus group study over the Internet with the one or more individuals;

(d) permitting live two-way video and live two-way audio communications over the Internet between the one or more individuals and the moderator during the live online market research or focus group study; and

(e) permitting a client to access and observe an ongoing live online study over the Internet unobtrusively to the one or more individuals; wherein said client is associated with a subject matter of the market research or focus group study;

wherein the live online market research or focus group study is conducted with the one or more individuals and moderator even where the one or more individuals are located geographically remote from each other, the moderator or the client;

wherein the one or more individuals are selected based on their willingness to participate in the live online study and not based on any business relationship or business connection of the one or more individuals with the moderator, said moderator and said one or more individuals independent from each other and not from a same organization or business entity, wherein the client and said one or more individuals independent from each other and not from a same organization or business entity; wherein an owner or operator of the website is independent from the one or more individuals and not from a same organization or business entity and the owner or operator of the website is independent from the

Applicant: Renee Frengut
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client and not from a same organization or business entity.

54. The method for conducting a live online study of claim 52 wherein the live study is secured and held online at a website and said sign-in information is a user id and password for each individual and provided to the one or more individuals in advance of a scheduled date and time for the live online study, said sign-in information permitting the individual with access to the secured live study

55. The method for conducting a live online study of claim 52 wherein said moderator is provided with sign-in information for accessing and participating in the live online study in advance of a scheduled date and time for the live online study.

56. The method for conducting a live online study of claim 52 further comprising the step of preventing the client from communicating with the one or more individuals through the live online market research or focus group study while the live online study is being conducted.

57. The method for conducting a live online study of claim 52 wherein said client is provided with sign-in information in advance of a scheduled date and time for the live online market research or focus group study in order to access and observe over the Internet the ongoing live online study over the Internet.

58. The method for conducting a live online study of claim 52 further comprising the step of permitting the client to communicate with the moderator unobtrusively to the one or more individuals during the ongoing live online study.

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Serial No.: 09/883,590
Appeal Brief

IX. EVIDENCE APPENDIX



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 3, 2004

In re Application of : Frengut, Renee
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Boyce, Andre
Group Art Unit : 3623
Docket No. : 1017.8002

RECEIVED

NOV 12 2004

GROUP 3600

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and any attachments thereto, is being deposited with the United States Postal Service, as First Class mail, with sufficient postage, in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

BETTY BERNAL
Name of Person Mailing
Paper

Betty Bernal
Signature

11/03/2004
Date

DECLARATION UNDER RULE 131(a)

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Renee H. Frengut, the applicant in the above-identified patent application, declares as follows:

1. I am a Licensed Clinical Psychologist with more than twenty years of marketing experience.

2. Since 1984, I have been President of Psychological

Applicant: Renee H. Frengut
Serial No: 09/883,590
Page 2

Insights, Inc. a marketing research and consulting firm based in New York and Boca Raton, Florida, specializing in in-depth, motivational and perceptual qualitative research.

3. I am a member of and have been active in many industry organizations including the following: The American Marketing Association, The American Psychological Association, The Society for Consumer Psychology, and Qualitative Research Consultants Association.

4. In approximately April 1999, well before September 1, 2000, I came up with idea of performing market research over the Internet, with the various respondents not required to be in the same room with the moderator.

5. Prior to my invention, as claimed in my pending patent application, the respondents to a market research session would all travel to the same location and meet with a moderator. The moderator would ask the respondents various questions about the moderator's client's product, services, marketing strategy, etc. Often the client's stimulus would also be shown to the respondents by the moderator. The nature of this traditional research inherently has numerous limitations including requiring the respondents to be in the same location with the moderator, requiring the client to also be in the same location to view the research session while ongoing, typically through a two-way

mirror. This also creates disturbances to the research session when the client wants to pass a note to the moderator during the research session, as well as imposing limitations on the number of research sessions due to travel requirements and costs of travel, etc.

6. In April 1999 when I conceived of my claimed invention for conducting market research session through two-way audiovisual communications over the Internet, without any travel requirements on the respondents, moderator or client, it was my intention to eliminate all of the problems identified above with traditional market research.

7. After conceiving of my idea for a virtual video and audio qualitative internet research company I began research technology solutions for my idea through approximately May 1999.

8. On May 24, 1999, I went to Nashua, NH, to the offices of White Pine to be thoroughly educated on the capabilities of their software. At the meeting, I explained in detail what requirements I would needed from their software and also described my intended use of their software as part my Internet Market Research application.

9. After being assured that their software could be used for my requirements, in June 1999 I purchased the White Pine Software solution. Believing that the White Pine software could be used

Applicant: Renee H. Frengut
Serial No: 09/883,590
Page 4

for my intended purposes, I began internally creating sample pricing and contract agreements in June 1999 for my claimed invention. (See Exhibit A)

10. In August, 1999, along with a business partner, I attended a two-day training session on how to use the White Pine software correctly.

11. The training session was a fiasco, and ultimately White Pine refunded the fees I had paid for the two-day training session.

12. Though from the outset of my dealings with White Pine I was told that their software would meet my requirements, throughout the remainder of 1999 and until February of 2000, I continued to no avail to make efforts to make the White Pine software function properly for my intended use. For example, In October 1999 I purchased an annual maintenance support for the White Pine's software product I had previously purchased (See Composite Exhibit B).

13. On February 28, 2000, I was finally told by a systems engineer at White Pine that my conceived invention could not be done utilizing their software that I had purchased. (See Exhibit C - Letter dated from April 27, 2000 from my attorney Judith A. Ripps to White Pine Software detailing the above facts and evidencing the frustrations I experienced with trying to have the

White Pine software work for my claimed invention).

14. On May 26, 2000, White Pine offered me a refund of the over \$18,000 I had spent to purchase their software purchase. The refund was ultimately sent to me by White Pine.

15. After learning at the end of February 2000 that the White Pine software could not be used for my invention, I continued to search for software solution that would enable me to implement my concept.

16. Ultimately, I hired a tech consultant who was able to make the system work. I was also encouraged by White Pine that significant improvements to their software had been made to allow their software to be used to implement my invention.

17. Also in 2000, I began further developing my invention through the starting of eQualitativeResearch.com, the first truly virtual video and audio qualitative internet research company. Once my invention was ready for implantation, my company would have focus (research) groups meet on-line, with the participants all possibly being in different geographical locations. The real time interviews with a moderator take place in the only "virtual research facility" and clients can observe in real time from their own desktops.

18. All critical dates regarding conception and possession of the claimed invention and basic claimed inventive concepts

Applicant: Renee H. Fregnut
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occurred prior to September 1, 2000. Furthermore, if not reduced to practice by September 1, 2000, significant steps had been taken such that actual reduction practice occurred thereafter.

19. I have been diligent at all times since my original conception of the claimed invention in approximately March/April 1999 up and to the time of filing my application on June 18, 2001.

The declarant further states that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.

Date: 11/2/04

Renee H. Fregnut
Renee H. Fregnut



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 4, 2004

In re Application of : Frengut, Renee
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Boyce, Andre
Group Art Unit : 3623
Docket No. : 1017.8002

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GROUP 3600

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and any attachments thereto, is being deposited with the United States Postal Service, as First Class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

BETTY BERNAL
Name of Person Mailing
Paper

Betty Bernal
Signature

11/04/2004
Date

NOTICE OF FILING EXHIBITS TO FRENGUT DECLARATION

Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby submits Exhibits A, B and C which were inadvertently left off Applicant's Declaration Under Rule 131(a), filed yesterday, November 3, 2004. As referenced in the Frengut Declaration, the Exhibits are as follows:

Exhibit A - Sample pricing and contract agreements.


Applicant: Renee H. Frengut
Serial No: 09/883,590
Page 2

Composite
Exhibit B Certificate of Maintenance documents.

Exhibit C Letter dated April 27, 2000 from attorney
 Judith A. Ripps.

Please attach these Exhibits to the previously submitted
Declaration Under Rule 131(a) of Renee Frengut.

Respectfully submitted,



Daniel S. Polley, Reg. No. 34,902
DANIEL S. POLLEY, P.A.
1215 East Broward Boulevard
Fort Lauderdale, Florida 33301
(954) 234-2417

CUSTOMER NO. 44538

EXHIBIT A

Filename: EQCORPRI
Directory: A:\EQR Stuff
Template: C:\Documents and
Settings\galvanj.GALVANJ\Application
Data\Microsoft\Templates\Normal.dot
Title: PROPRIETARY CORPORATE DATABASES
Subject:
Author: Renee H. Frengut
Keywords:
Comments:
Creation Date: 6/21/1999 3:08 PM
Change Number: 4
Last Saved On: 12/15/2000 12:55 PM
Last Saved By: Renee Frengut
Total Editing Time: 80 Minutes
Last Printed On: 10/6/2004 3:06 PM
As of Last Complete Printing
Number of Pages: 1
Number of Words: 125 (approx.)
Number of Characters: 578 (approx.)

PROPRIETARY CORPORATE DATABASES

SAMPLE PRICING AND CONTRACT AGREEMENTS

<u>LEVEL</u>	<u>DEVELOPM.</u> <u>COST</u>	<u>SAMPLE</u> <u>SIZE</u>	<u>MAX #</u> <u>GROUPS</u>	<u>COST</u> <u>PER GROUP</u>	<u>TOTAL COST</u> <u>PER GROUP*</u>
1	\$ 50,000	100 HH - @ 225 PEOPLE	30	\$4,000	\$5,666
2	\$100,000	200 HH - @ 450 PEOPLE	75	\$3,800	\$5,133
3	\$150,000	500 HH - @ 1,100 PEOPLE	150	\$3,500	\$4,500

CONTRACT PERIOD IS THREE YEARS

LEVEL 1 ALLOWS FOR 10 GROUPS PER YEAR

LEVEL 2 ALLOWS FOR 25 GROUPS PER YEAR

LEVEL 3 ALLOWS FOR 50 GROUPS PER YEAR

Larger contracts are available.

*Includes development costs.

All prices Include 4 client viewing stations. Each additional site would be \$200.

EXHIBIT B



Renee Frenquet
Psychological Insights
2000 North Ocean Blvd.
Suite 102
Boca Raton, FL 33431

Serial# SNDEF-BPJIA-CTBFT-HCJAF-GAHPG

certificate of maintenance

Maintenance Dates: 7/31/99 - 10/31/00

Service Contract #: MP00000493

Product: MeetingPoint for NT

Platform:

Number of Users: 25

Version: 4.0

This certificate of maintenance entitles you to the following:

- automatic shipment of all maintenance releases
- unlimited toll-free support
- telephone coverage from 8:00 a.m. - 8:00 p.m. EST
- access to support via fax, Internet, World Wide Web

If you need support or would like to renew your maintenance contract, please call **1.800.746.3778**

Alternate contact methods: Fax to **603.886.9051**, or via the Web at: <http://www.wpine.com/help/>

Please have your Service Contract number available when contacting White Pine for technical support.

CUseeMe
NETW RKS

MeetingPoint for NT ANNUAL MAINTENANCE

Renee Frenquet
EQR.com/Psychological Insights
2000 North Ocean Blvd. Suite 102
Boca Raton, FL 33431
USA

Current Status of Agreement:

Maintenance Expiration:	10/31/00
Serial Number:	SNDEF-BPJLA-CTBFT-HCJAF-GAHPG
Product:	MeetingPoint for NT
Number of Users:	25

Maintenance Price: \$3,995.00

If any information is missing or incorrect, please call CUseeMe Networks Support Department at 800-746-3778.

Please fax this form with your Purchase Order to the attention of Maintenance Renewals to 603-886-9051. Or, mail it to the attention of Maintenance Renewals, CUseeMe Networks, 542 Amherst Street, Nashua, NH 03063.

World Headquarters
542 Amherst Street
Nashua, NH 03063
T 603 886 9050
F 603 886 9051

European Headquarters
9551, route de St Laurent du Var
06610 La Gaude, France
T +33 4 93 59 43 43
F +33 4 93 76 76 66

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BOCA RATON, FLORIDA 33432-4832

(561) 368-1995

TELECOPIER: (561) 368-4315

BERTRAM HARNETT
IRVING I. LESNICK
JUDITH A. RIPPSOF COUNSEL
WILLIAM A. KASS

April 27, 2000

Delivered by Certified MailMr. Killko A. Caballero
Chief Operating Officer & President
White Pine Software
542 Amherst Street
Nashua, NH 03063

Dear Mr. Caballero:

This firm has been retained by Renee Frengut, Ph.D., President and Chief Executive Officer of eQualitative.com, to pursue substantial claims against White Pine Software, for, among other things, breach of warranties as to fitness and use and misrepresentation.

Dr. Frengut is an expert in the field of marketing. Her clients include Fortune 500 companies for which she conducts market research, involving the extensive use of focus groups. Dr. Frengut bills out her personal time to her clients at \$3,000.00 per day.

In or about early 1999, Dr. Frengut learned that White Pine Software made a software product that had a potentially exciting application for her market research business. Her initial contact was with Ms. Jennifer Basile, a sales representative, and Willy Wiegler, Director of Creative Services. At her own personal expense, Dr. Frengut went to Nashua on May 24, 1999, to learn about White Pine's products and to make a determination as to whether or not such software products could be utilized in her market research field.

During the meeting, Dr. Frengut explicitly detailed her needs and requirements for software products in order to ascertain whether White Pine Software could, indeed, deliver on those requirements. Essentially, she detailed to White Pine personnel the program which she envisioned - that is - the procurement of software which had the capability of permitting Dr. Frengut to run meetings of approximately six people, plus a moderator, from various parts of the country who could connect to Dr. Frengut's server via the Internet (nearly all via modems) and to have her clients observe the discussions from their corporate offices, wherever located. Willy Wiegler, Jennifer Basile, as well as other technical support people who were present at that meeting, confirmed that Meeting Point and CUSeeMe could in fact successfully deliver her requirements, especially if she

Mr. Killko A. Caballero
Page 2
April 27, 2000

Hannett, Lesnick & Phipps P. A.

RE: MEETING POINT AND CUSEE ME

optimized her computer hardware, and her bandwidth connection to the Internet. Dr. Frengut assured those present that since computer technology was not her strong suit, she not only would purchase the software but would follow, to the letter, White Pine's directions in obtaining whatever computer hardware was necessary to optimally run Meeting Point and CUSeeMe to conduct her market research focus groups online.

Dr. Frengut recognized that, with White Pine Software, she could effectively revolutionize the manner in which market research focus groups were conducted. It was an exciting time for her. She went ahead and incorporated a new company, known as eQualitativeResearch.com, a Florida corporation, with offices in both Florida and New York. The business purpose of eQualitativeResearch.com was to service clients by permitting Dr. Frengut to assemble focus groups where the participants could be seen and heard by each other, the moderator (Dr. Frengut), and the corporate clients, without leaving their respective homes or offices. The basis of all this was White Pine's representations to Dr. Frengut that Meeting Point and CUSeeMe software could permit focus group participation via modem connection so long as the modems were at least 56K. Dr. Frengut, serving as moderator, would be able to hear and see, with motion, the participants in her focus group. The participants, in turn, could see and hear each other and Dr. Frengut and all participants could successfully converse and interact.

Dr. Frengut has spent the last year actively devoting herself to the implementation of eQualitativeResearch.com's business utilizing White Pine Software. But after expending nearly \$100,000.00, setting aside the enormous commitment of her personal time, and following White Pine's hardware recommendations to the letter, there has yet to be run a single successful meeting, utilizing White Pine Meeting Point software. We set forth below a brief chronology.

Dr. Frengut purchased or leased every single piece of equipment that was recommended by White Pine's technical staff. She leased a state of the art Dell computer server costing more than \$6,000, with an additional \$500 power supply back-up and \$800 in installation expense, two state of the art (550 Pentium III) Dell desktops, and a notebook, all with the recommended hardware and software needed to successfully and maximally run White Pine's software products, according to the expert advice from White Pine's staff. The server was leased for the sole purpose of running the White Pine software and continues to this very day to cost \$400 a month for "co-location services" at a local Internet provider named WAMnet. eQualitativeResearch.com also purchased several video cameras and other peripheral equipment as well as spending well over \$20,000 on developing a web site and banner ads for the Internet. eQualitativeResearch.com has spent another \$30,000 for advertising and promotion costs, as well as the usual start-up costs for telephones, stationery, brochures, web site development, hosting and support, etc.

Mr. Killko A. Caballero
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Hannett Lesnick & Phipps P. A.

RE: MEETING POINT AND CUSEE ME

In addition to the hardware and software costs, there also were considerable costs associated with installing an ISDN telephone connection for eQualitative's New York office and ordering a DSL service contract (also with high installation fees) for the Florida office, both with very costly technical consulting fees.

Once all of these pieces were successfully in place, all attempts to actually run White Pine Software and the entire associated technology to implement the business program were FUTILE. In early August, 1999, Dr. Frengut and her business associate made a trip to Nashua for a two-day training seminar. White Pine charged them a fee of \$2,950, on top of the travel costs, lodging, transportation, and food that Dr. Frengut and her associate personally incurred. The training was a fiasco. None of the equipment needed for training on the software was functioning for the duration of their stay in Nashua. They never did see the software equipment actually work. They were told that the software worked fine, but that the internal system at White Pine was being "stressed tested" during their visit which is how the staff explained the lack of performance of the software.

In December, 1999, a DSL was installed at eQualitative's Florida corporate offices. After many weeks and considerable dollars spent for technical experts and consultants trying to get the whole system to work, the system did not work. It was impossible to receive and maintain a video and audio signal from others via CuSeemePro or Net Meeting who were connecting to the Meeting Point server via modems. This is in direct contrast to all the assurances received from White Pine personnel.

In January, eQualitative purchased 6 different cameras and 5 different headsets, continuing to escalate the quality and price of these items in an effort to get the program to work. The program did not work.

On Monday, February 28, 2000, the final shoe fell. On that date, Dr. Frengut learned from White Pine representatives that White Pine Software could not work with modem users at all and that anything less than Cable Modem or DSL connections to the Internet would be futile. White Pine knew from its initial meeting with Dr. Frengut's business plan was to utilize White Pine Software to permit ordinary people to participate in focus groups, utilizing both video and audio conferencing, via 56K modem. Never, until February 28, 2000, was she told by White Pine that focus groups participants in the field were required to have cable modem or DSL connections to the Internet to utilize the software effectively.

Hannett Larnick & Ripps P. A.

Mr. Killko A. Caballero

Page 4

April 27, 2000

RE: MEETING POINT AND CUSEE ME

White Pine is accountable to Dr. Frengut and eQualitative.com. White Pine specifically was told of Dr. Frengut's detailed business plan, utilizing White Pine Software. White Pine repeatedly assured Dr. Frengut, both orally and in writing through its extensive product and marketing brochures, that White Pine Software absolutely fit for the use intended by Dr. Frengut. White Pine made detailed recommendations as to what technical support was necessary in order to achieve the optimal effectiveness of the White Pine Software, all of which was affirmatively implemented by Dr. Frengut. The fact is that it does not work.

We seek a prompt resolution of this matter, but one that does justice to the enormous time and energy invested by Dr. Frengut and dollars spent and income lost, by reason of the failure of White Pine software to perform as represented.

We look forward to your response.

Very truly yours,


Judith A. Ripps

JAR/pmf

EXHIBIT C

White Pine Software, Inc.
542 Amherst Street
Nashua, NH 03063
Phone: 603-886-9050
Fax: 603-886-9051
World Wide Web: <http://www.wpine.com>

October 26, 1999

Renee Frenquet
Psychological Insights
2000 North Ocean Blvd.
Suite 102
Boca Raton, FL 33431



Dear Renee,

Enclosed, please find your Maintenance Certificate(s) for your recent purchase of a White Pine Software Maintenance Program.

Thank you for continued support of White Pine's products. Should you have any questions, please contact our Sales Department at 800-746-7463.

Regards,

Heidi Letourneau

CUseeMe
NETW RKS



MeetingPoint for NT ANNUAL MAINTENANCE

Renee Frenqut
EQR.com/Psychological Insights
2000 North Ocean Blvd. Suite 102
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 22, 2005

In re Application of : Frengut, Renee
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Boyce, Andre
Group Art Unit : 3623
Docket No. : 1017.8002

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and any attachments thereto, is being deposited with the United States Postal Service, as First Class mail, with sufficient postage, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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Name of Person Mailing
Paper

Betty Bernal
Signature

11/22/2005
Date

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUBMISSION OF DECLARATION UNDER RULE 132

Dear Sir:

On November 3, 2005, Applicant filed a response to the Office Action dated June 3, 2005, indicating that a Declaration Under Rule 132 would be filed under separate cover, as further support for allowance of the claims. Applicant submits herewith its duly executed Declaration in support as to why Applicant's claimed invention is not obvious.

Best Available Copy

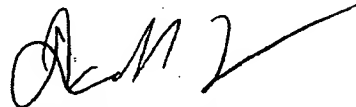
GP 3623
JFW image

In re application of: Frengut Renee
Serial No.: 09/883,590
Page 2

Applicant respectfully requests that Applicant's Declaration Under Rule 132 be entered together with Applicant's Amendment filed November 3, 2005.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 503180.

Respectfully submitted,



Daniel S. Polley, Reg. No. 34,902
Daniel S. Polley, P.A.
1215 East Broward Boulevard
Ft. Lauderdale, FL 33301
(954) 234-2417

CUSTOMER NUMBER 44538

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 11, 2005

In re Application of : Frengut, Renee
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Boyce, Andre
Group Art Unit : 3623
Docket No. : 1017.8002



CERTIFICATE OF MAILING

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Betty Bernal
Signature

11/22/2005
Date

DECLARATION UNDER RULE 132

Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Renee H. Frengut, the applicant in the above-identified patent application, declares as follows:

1. I am a Licensed Clinical Psychologist with more than twenty-five years of marketing experience.

2. Since 1984, I have been President of Market/Psychological Insights, Inc. a marketing research and consulting firm based in New York and Boca Raton, Florida, specializing in in-depth,

Applicant: Renee H. Frengut
Serial No: 09/883,590
Page 2

motivational and perceptual qualitative research.

3. I am a member of and have been active in many industry organizations including the following: The American Marketing Association, The American Psychological Association, The Society for Consumer Psychology, and Qualitative Research Consultants Association.

4. In approximately April 1999, I came up with idea of performing live market research over the Internet, with real time audio and video capabilities, and with the various respondents not required to be in the same room with, or even same geographical location as, the moderator of the market research. At the time of conception and until the launch of my company's services, my idea was completely unknown to and unheard of by the market research/focus group industry.

5. Prior to my invention, as claimed in my pending patent application, the respondents in a market research session would all travel to the same location and meet with a moderator and were typically conducted in several cities. The moderator would ask the respondents various questions about the moderator's client's product, services, marketing strategy, etc. Often the client's stimulus would also be shown to the respondents by the moderator. The nature of this traditional research inherently has numerous limitations including requiring the respondents to be in

the same location with the moderator, requiring the client to also be in the same location to view the research session while ongoing, typically through a two-way mirror. This also creates disturbances to the research session when the client wants to pass a note to the moderator during the research session, as well as imposing limitations on the number of research sessions due to travel requirements and costs of travel, etc.

6. In April 1999 when I conceived of my claimed invention for conducting market research session through two-way audiovisual communications over the Internet, without any travel requirements on the respondents, moderator or client, it was my intention to eliminate all of the problems identified above with traditional market research.

7. As previously described in detail in my earlier filed Declaration for this application, which is incorporated by reference, after conceiving of my idea for a virtual video and audio qualitative internet research system and method, I had to overcome significant technological hurdles for quite some time before I was finally able to make my unique system work.

8. In 2000, I launch my invention through the starting of eQualitativeResearch.com, the first truly virtual video and audio qualitative internet research company. Once my invention was ready for implementation, my company would have focus (research)

groups meet on-line, with the participants all possibly being in different geographical locations. The real time interviews with a moderator take place in the only "virtual research facility" and clients can observe in real time from their own desktops.

9. It would not have been obvious to a person having ordinary skill in the art of my invention to modify the cited Ludwig patent as suggested by the Examiner to arrive at my claimed invention. As mentioned above, and in my previous Declaration, significant time, resources and energy were required from me before I was able to finally create my working system, which is the subject matter of my current patent claims.

10. Recently, which is well after the launching of my company and filing of my patent application, other companies in the market research industry are now copying my technology by now offering live audiovisual market research services over the Internet.

11. These companies had previously utilized some type of video technology, which was dissimilar to my claimed invention. FocusVision (a market research support company) has been in business since 1990 utilizing an ISDN closed circuit video transmission using a Polycom system for the transmission of focus groups to one of their installations for remote viewing of a market research event. It, however, was not until June of 2005

that it announced in advertising that it now has the major breakthrough capability to provide the exact model as my current claimed invention details. See Exhibit A to the Declaration.

12. FocusVision is a very large company in my industry with much more resources available to it as compared to myself and my company.

13. In its advertising, FocusVision touts itself (see enclosed advertising) as "the leader in video technology for the Market Research industry". If indeed the current invention was so obvious over the various patents cited by the Examiner, then the self-proclaimed industry leader with all of their available resources and who have been in existence prior to the issuance of the Ludwig patent and who were experiencing the same limitations of traditional market research, should have developed my claimed invention prior to my conception.

14. Another industry company also launched this exact model to my claimed invention in February, 2005, hailing it as the most revolutionary advancement in conducting market research. See Exhibit B to this Declaration.

15. The fact that these companies and others, with knowledge of my company and its services, only this year began to offer their same methodology and capability to the subject matter of my claimed invention, is evidence that my claimed invention is not

Applicant: Renee H. Frengut
Serial No: 09/883,590
Page 6

obvious, but rather unobvious.

16. As further evidence that my claimed invention is not obvious I also rely on the many articles, awards and testimonials that the claimed invention has received from the market research industry and its practicing professionals as well as related technology awards and publications. These various items are attached hereto as Exhibits C-6.

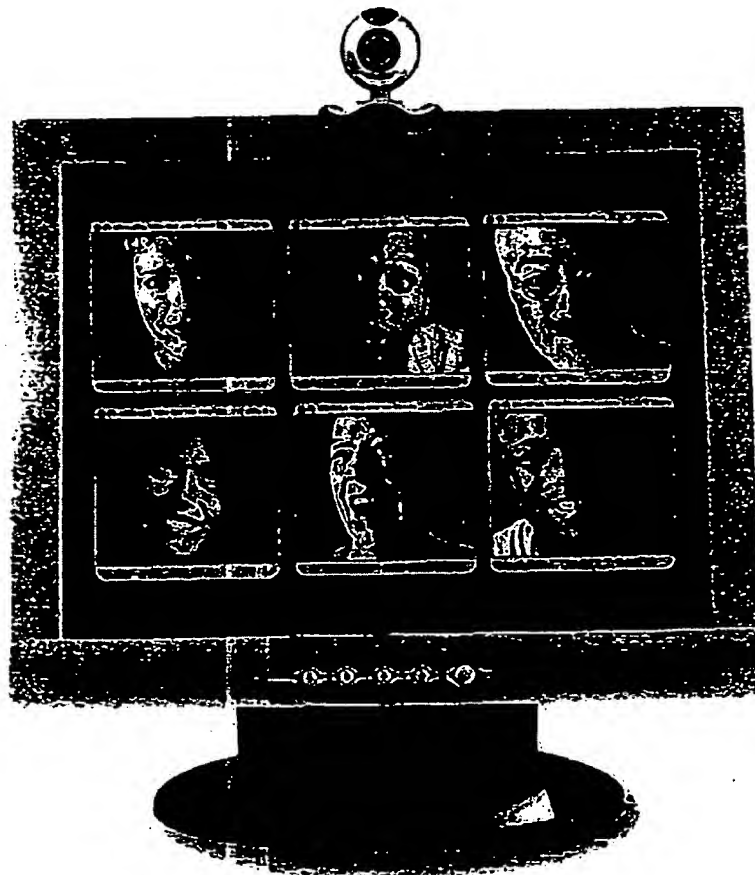
17. Lastly, many in my industry actually taught away from the subject matter of my claimed invention. See First Paragraph of Exhibit D, "it is essential the marketing community not become too enthralled with using the Internet to conduct qualitative research... it clearly is not a viable substitute for well-run traditional focus groups."

The Declarant further states that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.

Date: November 18, 2005

Renee H. Frengut
Renee H. Frengut

FocusVision Has Added
A Face and Voice
To Online Focus Groups.



Introducing FocusVision InterVu
The world leader in video transmission of focus groups

Imagine the power of true two-way interviewing where participants and moderator see and hear each other over the Internet from their home or office. FocusVision makes online qualitative interviewing a reality - and easy to do:

- Participants and moderator use a video camera mounted to their computer, enabling everyone to see each other during the interview
- Clients view, unseen, from a virtual "back room" on their PC
- Moderator can present stimuli, conduct polling, and receive chat messages from client
- FocusVision organizes and reliably transmits the entire event, so you can focus on your interview
- Quality recruiting pool of webcam-enabled respondents is readily available through one of the largest, demographically diverse independent online panels

Online qualitative research has finally arrived - and it's no surprise who again is leading the way: FocusVision.

For a free demo and more information about FocusVision InterVu, call 203-961-1715 ext. 7, email info@focusvision.com, or visit www.focusvision.com

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Technological, Methodological, Economic & Business Changes Impacting MR

Qual Breakthrough--Online Focus Group-- Earns 2004 "High Impact MR Project" Award

For at least a half-dozen years, the MR industry has heatedly discussed the pros and cons of what were called "online focus groups." Never mind that what comes to mind is an audio/visual representation of a traditional or videoconference focus group. What proponents and opponents of online focus groups have truly been debating was online chatrooms where the moderator and participants were unseen and communicated only in text through their keyboards. There was widespread dislike or indifference to text-based "online focus groups." In truth, "online focus groups" were a figment of the industry's imagination.

eQualitativeResearch.com's (Boca Raton, FL) President Renee Frengut, Ph.D., has breathed life into a real online focus group, much as Geppetto's prayers for a son did for Pinocchio. Frengut, a 20-year advocate of traditional qual research tools, had a dream, assembled a team, dedicated her heart (and money) and whittled away at technology until it produced the first real, live, user-friendly online focus group capability. That achievement has earned her *Research Business Report's* 2004 High Impact Market Research Project Award. This honor, inaugurated in 2000, recognizes "research that leads by nudging or forcefully pushing MR in more progressive directions."

eQualitativeResearch.com's technological breakthrough hasn't yet taken the market by storm, but its repercussions should be felt widely in coming months and years. Companies and organizations that have never done qual research of any kind--and internal functions outside MR (i.e., competitive intelligence, strategic thinking)--could make the online focus group part of their knowledge arsenal. While potentially cannibalizing traditional focus groups, its simple, from-your-desk usability, low cost and global reach could dramatically boost the overall use of qual research online--not only focus groups, but IDIs, ethnography, etc. As the Internet and online panels have made "overnight surveying" a reality, imagine an "overnight online focus group" capability.

"When researchers see how different this is from chat-based

groups and how comparable it is to traditional focus groups, they are floored," Frengut stated. Her less-than-10-minute installation process involves setting up a webcam and microphoned-headset and downloading software. "It's so simple, respondents as old as 93 have not only managed it, but called it 'magic,'" she said.

Astounding technology isn't the sole reason Frengut was selected for RBR's honor. Clients say eQualitativeResearch.com's

patented online setting is delivering unprecedented insights. "It's the first time our qualitative research has told us something we didn't already know," one MR Director in the Consumer Products Division of a large pharmaceutical company told RBR. That same person stressed Frengut's worth--as a psychologist and moderator--as a value-add to the process. "Her approach is highly creative, from the questions she asks, to the discussions she provokes, to the insights she extracts. She has provided many ah-ha's." The MR Manager at another major company agreed. "Renee has a unique way of probing the psyche of consumers to get beyond surface insights. eQualitativeResearch.com is like my little research secret," he stated.

Actually, RBR revealed the "secret" in February, when the technology had yet to be launched. Since then, Frengut has attracted clients from a major CPG company, a major pharma company and a local museum, and has deals "in the works" with, among others, another large pharma company and online moderator David Van Nuys, Ph.D. of e-FocusGroups (Rohnert Park, CA), to whom Frengut would license her technology. "I'm pitching it to clients as a cost-comparative, enhanced alternative to text-based online groups," Van Nuys shared. "But I know it will have applications we have yet to even fathom."

Van Nuys isn't the only one who sees the potential of eQualitativeResearch.com. The company has been the target of unceasing aggressive attack by hackers, which may be potential competitors. "Every time we go live with a project, we monitor someone attempting to shut us down," Frengut revealed. "It



eQualitativeResearch.com President Dr. Renee Frengut

always comes from the same place. We know the ISP and city of origin, we just haven't caught them yet. But they have forced us to ensure every research session has Pentagon-level security."

Frengut, with CTO Jack Galvan, has applied for 11 patents in '04, most of which are add-ons to her existing application. One



allows two-way "note passing" between the client in the virtual backroom and the moderator; another streams live video stimuli, such as a movie trailer, into the focus group and displays it alongside participants' video pictures. The company also just completed its eQR Call Center. These audio-only message boards for in-depth interviews allow clients to listen in real time and pass notes to the interviewer, neither of which are

possible with traditional phone interviews.

One patent, ethnography, is an entirely different methodology, described by one user as "more naturalistic" than its traditional counterpart. "We send a camera to a participant's house, they function as their own camera person and narrator, then send the tape back," Frengut explained. "We upload it into our software, then conduct a live interview with the participant as we both watch the video. The interviewer can pause the tape and ask the respondent for more details. It alleviates the burden of entrusting ethnographers to capture everything the client wants, since traditionally clients aren't there to give live input. Plus it avoids the inevitable discomfort of having an unknown ethnographer invading the participant's home."

The consensus among eQualitativeResearch.com users is convenience and comfort top the list of benefits. From the comfort of home, respondents reveal insights they traditionally withhold. "The online focus group is the perfect setting for our advanced research on sensitive topics. Participants seem to forget the camera is on them," one customer reported. The setting also allows otherwise impossible research scenarios. "I did a study of very dedicated dog owners," Frengut recalled. "In the middle of the focus group, they started asking if I would like to see their dogs. Before you knew it, the dogs were on their laps. Try that in a central location!"

Clients themselves also relish the luxury of never leaving their home or office. Just one problem has emerged. At times, they can become almost too comfortable. "It never occurred to us," Frengut chuckled, "but one client complained our technology was so turnkey that his staff was being distracted by goings on in their office during the focus groups. He had to corral them all in the conference room and pretend it was a backroom."

The cost of Frengut's service is at price parity with traditional focus groups, minus one major "incidental": travel costs. Though the clients RBR spoke to didn't seem too concerned with traditional focus groups' high travel expenses, eQualitativeResearch.com estimates cost for a modest qual project averages \$30,000. And that doesn't include the "quality of life" savings of conducting research online: moderators, clients and participants save the exhaustion and travel time. "We can make multi-city and global research a much more tangible reality," Frengut added.

The technology is providing access to hard-to-reach respondents. One researcher at an international consumer products company raved, "No longer must I limit locations for a project. After years of research travel, it'll be a blessing to make fewer trips and actually increase the geographic scope of each project. This will be my first choice for interviewing respondents in far-flung locations and many kinds of professions."

Indeed, eQualitativeResearch.com is fulfilling a research dream. "Like many other researchers, I knew there was the potential to move from text-based online focus groups to video-based," Van Nuys related. "But Renee was the one who had the gusto and the will to devote the enormous time, resources and effort to actually deliver it." RBR congratulates Renee Frengut and eQualitativeResearch.com on this 2004 award! **RBR**

Reproduced from the November 2004 issue of Research Business Report by RFL Communications, Inc. (Skokie, IL), which also publishes Research Conference Report, Research Department Report and Pharma Market Research Report, three other MR newsletters. For more information about any of these publications, please visit <http://www.rflonline.com>, send an e-mail to info@rflonline.com or call RFL at (847) 673-6284.

February 2004

Online Qual Breakthrough Replicates Offline Focus Groups

Tom Greenbaum, President of Groups Plus (Wilton, CT), in a February 2000 *Advertising Age* article spoke for the majority of researchers when he warned "it is essential the marketing community not become too enthralled with using the Internet to conduct qualitative research...it clearly is not a viable substitute for well-run traditional focus groups." But that was four years ago. Since then, online qual methods--particularly chat-based focus groups and bulletin boards (with certain provisos)--have made major technological strides, which have earned them notable industry acceptance. However, the Internet equivalent of traditional focus groups has remained elusive.

But all of that seems about to change. Dr. Renee Frengut's eQualitativeResearch (Boca Raton, FL) is on the cusp of launching the first fully-optimized virtual focus group capability, the killer application many in the MR community have dreamed about. The technology has been imperfect and the same might be said for the expertise behind available systems--until now. eQualitativeResearch.com could potentially revolutionize qualitative MR by opening the way for respondents, moderators and clients to participate in authenticated focus groups or IDIs without leaving their respective homes or offices.

Ironically, Frengut is the kind of traditional qualitative researcher one would expect not to be an online qualitative advocate. She has served blue chip brands and companies for over 20 years (including as a qualitative research problem-solver). "I believe qualitative research relies on interpersonal communication. I strongly believe you have to be able to see and hear the respondents," she told *R&B*, assertions that can easily be interpreted as unsupportive of online qual. But a chance encounter with a webcam at an elderly couple's home in 1999 aroused her interest. "They had the webcam to see their grandkids all over the country. It so impressed me that I decided to investigate whether the technology could be applied to online focus groups."

She discovered the task would be complex and take time. "I thought the capability was a simple enough concept, but it turned out to be quite a challenging and expensive undertaking in practice. I really underestimated how complex it would be to develop this capability," she confessed. "The hardware is very costly and there's numerous software and original programming involved in getting it operational. But most online MR technologies that had been introduced had been designed by software engineers and technicians--not market researchers," she noted. Her mission continued, albeit frustratingly slowly.

All the while, she stuck to her deeply-held beliefs about qualitative

MR essentials. Those underpinnings and her background in clinical psychology shaped her hoped-for virtual focus group development. "I wanted eQualitativeResearch.com to address any possible requirement or issue that might arise from a researcher or client's perspective based on my own experiences and research expertise. In my mind, it had to replicate the traditional focus group model," Frengut stated.

She was well aware of the online bulletin boards and Internet chat groups that predominated within online qual. "Two friends of mine make a very nice living with bulletin boards," she told *R&B*,

"although I see fewer and fewer chat focus groups." Frengut had issues with both. "I'm not sold on them because of the total anonymity of the participants, the typing skill prerequisite and the absence of the non-verbal communication dynamic."

Predicating her most discriminating standards with Procter & Gamble (a long-time client) as her yardstick, Frengut's mission took four years. "P&G is the gold standard. I knew if I could satisfy them, I was ready for a market introduction," Frengut reasoned. "Some of my P&G contacts have seen it and think it's a major step into the future."

The new system and its website launched in early January. It works on any Windows 2000 or newer

operating system. Respondents are pre-screened for high-speed Internet access (a system requirement) and eQualitativeResearch.com supplies each with a webcam and microphone headset (eliminating any echo effect from the computer's speakers), which are incentives for first-time participants. A small \$25 cash incentive is also customary, payable after the session. Equipped respondents earn \$50 for subsequent participations. "If we over-recruit, there is a client cost savings. In a facility, you pay someone the full amount for showing up. Online, we pay \$20 to those we don't include," Frengut disclosed.

Frengut takes up to two weeks to set up each project, "to get the equipment out and the group up and running." A proprietary software download that "almost installs itself" completes the average 30-minute installation process. The program is available in nine languages. The system is multi-point--meaning the moderator and all respondents log in simultaneously from disparate, remote



Renee Frengut, Ph.D., President, eQualitativeResearch

locations and converge in a "virtual focus room" online.

Frengut prefers offline and online focus groups with three to five respondents, but the online platform can accommodate as many as 20 windows on the screen. "We have white-boarding and file-sharing; you can browse the Internet, evaluate websites, show any kind of stimuli--movie trailers, product packaging, whatever," Frengut detailed. Anticipating the protests of naysayers, she added, "if respondents need to touch or physically interact with any stimulus, we simply send it to them in advance."

Providing clients access to research as it happens is a signature of traditional focus groups, so Frengut devised a "virtual backroom" where they can watch the proceedings in real time. Because most client IT networks are firewall protected, the virtual backroom is accessed by a link e-mailed to clients, which opens up a passive stream to the group. "If you can browse the Internet, you can view the group," she assured.

The strictest of offline focus group moderators dislike clients passing notes to them, but Frengut has built-in this capability (as a con-

room." Frengut's rebuttal: "An experienced, qualified moderator has no problem establishing authority using this system. If someone is offensive, you can drop them. If someone insists on talking over everyone else, you can mute them. To address a respondent privately, there's a personal chat window. You select from a drop-down list of participants and type a private note to an individual."

A common argument against bulletin boards and chat-based focus groups is participants' altered interaction versus in-person sessions. Frengut insists her system is "extremely intimate. The participants can see and hear one another clearly. They're not physically sitting with each other, but the experience is very close to being in the same room. Our system has sparked respondent discussions just as they would in the terrestrial world."

The system also allows the moderator to manipulate individual respondent's windows. "We can move them around. And we have different size windows, big ones and little ones. When someone talks, we can feature them in a larger screen," Frengut explained.

As with videoconferencing research, perhaps the most attractive



cession to client demands and expectations) via a private chat window. She advises authorization of a single person to type everyone's questions, so the moderator isn't overwhelmed. A second private client-only chat window promotes discussions among the observers that the moderator doesn't see.

Detractors of online qualitative methods routinely point out the moderator's diminished authority and watered down control of "the

aspect of an eQualitativeResearch.com focus group is elimination of travel and its time, exhaustion and cost repercussions. "I've traveled for focus groups for over 20 years and gotten completely burned out by them," Frengut admits. Without taking the time and money saved on travel into account, she estimates an eQualitativeResearch focus group is at cost parity with traditional groups--and just as secure. The virtual meeting room comes

Online Focus Groups *(Continued from page 7)*

equipped with 128-bit encryption, bank-level security. "Stimuli pages are Web-based and non-downloadable, non-printable, unscrutable. As soon as we remove the link, it's gone. While it's up, respondents can't do anything outside of looking at it," Frengut stressed. An assigned technician monitors each group to assure optimal system performance. eQualitativeResearch boasts a staff of U.S. and Canadian-trained affiliated moderators.

The system's broadband requirement has the potential to raise sampling issues, but Frengut shrugs off such concerns. She makes no claims that eQualitativeResearch.com is everyman's research solution. She concedes that "the potential respondent population is skewed slightly upscale, but for qualitative research, it's often

desirable to have more articulate people participating. Statistically, this would be a concern, but this isn't statistical research.

"Broadband penetration was a gamble I took in building this system," she continued. "Instinctively, I knew there would be a non-reversible trend. Once you experience high-speed Internet, you don't accept dial-up. And broadband is getting more and more affordable and available, so every year the pool of potential respondents has and will continue

to get larger and larger. Penetration in the U.S. is now about 25% of people online. We have access to over 900,000 qualified names."

Frengut claims recruiting among broadband users is no more difficult than for other segments. "Depending on the study, I'll even use traditional recruiting firms," she disclosed. "The initial screening is done by e-mail, then we follow up with details." Recruiting can be done randomly online, from a client's database, a supplier's panel or via the eQualitativeResearch panel that is under construction.

Frengut has a "method of doing business" patent pending. Having shown her tool to selected MR suppliers and client-side MRDs, she has been surprised at some reactions. "I've owned a qualitative research firm since 1984 and before that I worked in qualitative for others. I'm shocked at how resistant to change, how risk averse this industry is. No one misses the advantages of this system. Its cost and time effectiveness and efficiencies are very compelling. You can build a group of respondents from all over the world, let alone the U.S. People have called it amazing, but in the same breath, they've said they'll continue to do things the way they always have—even in an inferior way—because of benchmarks," she said.

Undeterred, she is pushing the online qualitative MR envelope. Ethnography is hot and Frengut is molding eQualitativeResearch.com to such tasks. (It would appear to have different dynamics than offline ethnography.) "We're sending moderately-priced, digital movie cameras to pre-recruited people, with instructions as to what to record around their home. Often, the camera is the incentive; they send us back a disk in a Fed Express mailer and we follow-up with an IDI online," Frengut detailed.

She is carefully picking her spots for eQualitativeResearch.com's rollout. "A lot of people are waiting to hear from me. I tend to be overly perfectionistic," Frengut said, alluding to issues she wants to address. "For instance, one-on-ones are really easy to schedule. We do it in a person's home or office. But a lot of businesses have TIs as well as triple-level firewalls that are impossible to navigate," she revealed.

Broadband connection quality also can be a distraction. Respondents with poor broadband connections can suffer time-lag communications. "We either ask for their response after everyone else or continue without them," Frengut detailed. Occasionally, solar flares, sun spots and increased radio wave activity can interfere with the Internet and, therefore, a project. "Still, that's no different from blackouts, flight delays or snow storms that play havoc with qualitative research schedules," she said. "At least with our system, you haven't traveled anywhere and won't have to when the rescheduled session takes place." **RBR**

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Pharma Market Research Report

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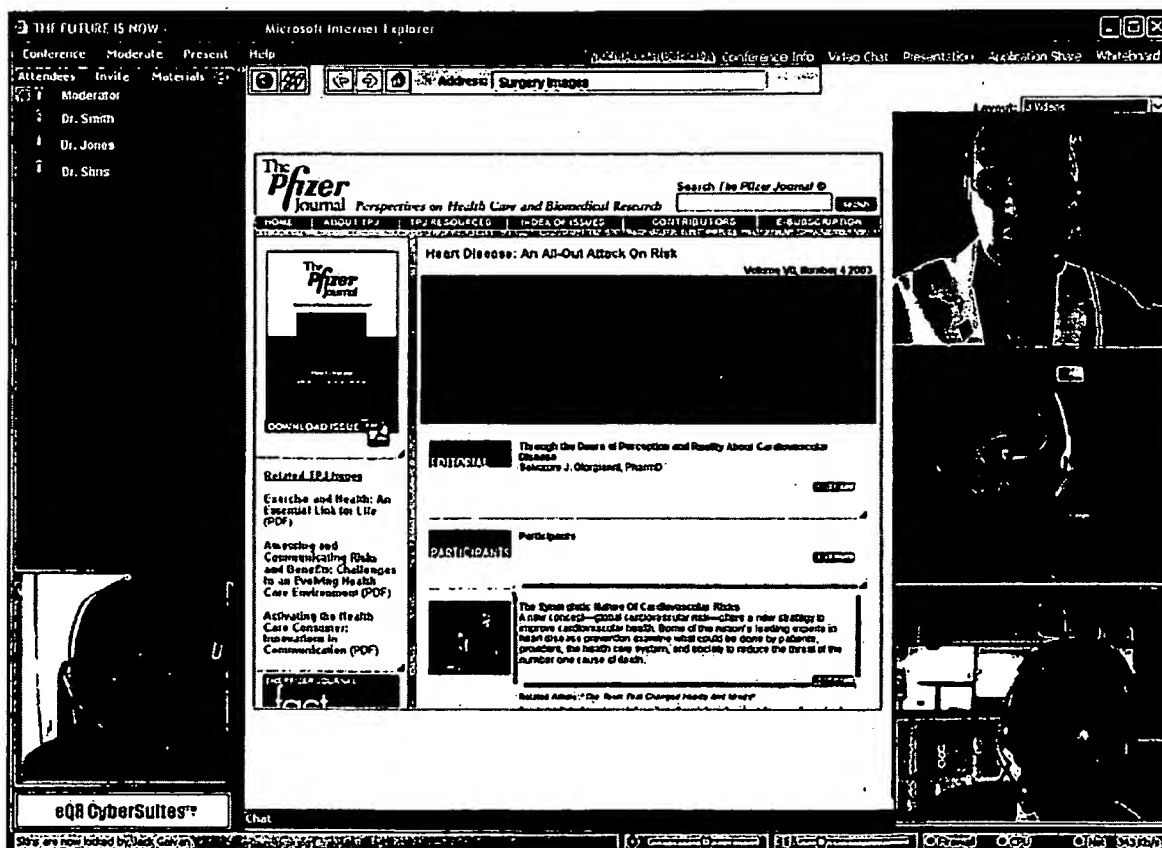
The world's news source for pharma, healthcare and life sciences MR

Online Qual Breakthrough Scores Big With MDs

Online surveying had its critics from the start. For the most part, it won over the MR industry, but online qualitative efforts have been lambasted by some and generally discounted by everyone else. The reason: an inability to replicate the focus group in the online space. But now, pharma, healthcare and life sciences market researchers—

chance encounter with a webcam in 1999 inspired her to begin creating a Net-centric qualitative tool—the first-ever, fully-optimized virtual focus group capability—that today, after five years of development, is launching. It's poised to rock qualitative MR.

No one has been able to bring streaming virtual focus groups to



Physicians interacting with the new eQualitativeResearch's new online focus group capability.

and the physicians, healthcare professionals and administrators who will participate in focus groups or in-depth interviewing from the comfort and convenience of their office or home—have Dr. Renee Frengut's eQualitativeResearch (Boca Raton, FL) to thank.

Frengut, an independent qualitative researcher serving several of the world's top brands and companies for more than 20 years, admits she had never been a fan of online qualitative MR tools. But a

life for varied reasons. "It's a simple enough concept, but quite a complex and expensive undertaking in practice," Frengut told PMR. The system was designed with Frengut's long-time client Procter & Gamble in mind, whom she considers the industry's gold standard. "I figured if I could design something that addressed all of P&G's possible issues, met all of their quality standards and cleared any potential hurdles they could throw at me, I would have

something ready for the marketplace," she related. "Some of my contacts there have seen it and think it's a major step into the future," she added.

Frengut's system has all of the design features one might imagine in a virtual focus group. It's multi-point, meaning respondents log in simultaneously from different locations and converge in a "virtual focus room" online via webcams. When *PMR*² got a look at the system, the image on the monitor resembled the multi-split-screen opening credits from *The Brady Bunch*--several screen-in-screen windows, each containing a respondent's face, accompanied by an audio feed of their voice.

"I knew we had to replicate the traditional in-person qualitative model," Frengut stressed. "Our system accounts for the full range of non-verbal communication, including vocal intonation and facial expressions. It's an extremely intimate medium, with all of the benefits of a live focus group or individual interview, plus all of the efficiency and convenience of the Internet."

Frengut estimates eQualitativeResearch focus groups are at cost parity with traditional groups, but that doesn't take into account precious time and money saved by not having to travel. Clients watch the groups live from their desktops and can feed questions to the moderator through a private chat window. The virtual meeting room comes equipped with 128-bit encryption, bank-level security and an assigned technician who monitors each group to assure optimal system performance. eQualitativeResearch also boasts a staff of trained, affiliated moderators.

Respondents are pre-screened for high-speed Internet access (a system requirement). Webcams and microphone headsets are supplied to each participant by eQualitativeResearch (it's part of their incentive), along with a propriety software download that makes it all work. Respondents may be recruited at random, from a client's database, from a supplier's panel or from the eQualitativeResearch panel Frengut is building. She estimates it takes two weeks to set up a group from scratch.

For participants, comfort and convenience may be the key. Few segments of respondents are more sought after or difficult to recruit for MR than doctors. Frengut claims eQualitativeResearch is especially attractive for pharma and other health sciences MR. "It's ideal for talking with physicians and other time-pressed professionals," she asserted. "The office assistant can set it up very quickly and easily; it basically self-installs. To set up a session, we make an appointment. The doctor stays in his office and talks to his computer, which makes our system extremely compelling for a physician. They're so busy that a trip to a focus facility handicaps their likelihood of participating. We save them the minimum hour or more

spent getting to and from, not to speak of the inconvenience. Most doctors I've worked with would much prefer to keep their own schedule, stay in the office and receive \$250 than \$350 for driving to a facility."

Roughly 10% of Frengut's traditional clientele have come from pharma, and she's already put eQualitativeResearch to the test with doctors. "Several doctors that I've interviewed using this system--it was a study among neurologists--e-mailed me for days after the study about how much they enjoyed the experience. I heard, 'This was so terrific. I'd tell all my friends to do it.' and 'What a breakthrough!' and 'I had a lot of fun with this.' It's convenient and enjoyable, and that dramatically increases the likelihood that they'll participate again."

Frengut emphasizes eQualitativeResearch's appropriateness for Individual Depth Interviews, something also especially important for pharma MR, considering that doctors are more often polled in IDIs than in focus groups. "It's very tough to get a whole group of doctors together. With this capability, you can schedule and complete one IDI after another with doctors from all over the country just sitting at your computer for one day," she noted.

The system can also be tweaked for ethnographic work, a useful feature for at-home patient research. "I've done ethnography for 20 years. It's the most grueling form of research known to mankind. You and a camera person have to spend four or five hours in a person's home. Here, we ship a patient a movie camera with a built-in microphone and tell them what to do, what we want to capture on themselves, in their homes or even new products in clinical trials and/or for housebound patients. They send the camera and the chip back when it's completed, we upload the chip and then we do an in-depth one-on-one online. It's all recorded and ready for analysis."

Frengut claims to have mastered the technological and methodological problems that have beset pharma online qualitative work. We'll see how long it takes for MR in this industry to experiment with and refine this process so that respondents and clients can tap into its advantages. **PRB**



Dr. Renee Frengut

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company news



For Immediate Release - Woman of the Year Awards

Thursday May 20th, 2004

Boca Raton, Florida — The President and CEO of eQualitative Research Inc., Dr. Renee Frengut won the Woman of the Year Award presented by the Atlantic-Florida Chapter of Women in Communication (AWC) for the category of Communications Technology and the Internet.

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The Association for Women in Communications recently presented its Fourth Annual Woman of the Year Awards honoring women in seven communications categories.

The winners were:

- Lifetime Achievement Award: Pulitzer Prize Winning Miami Herald Journalist and Novelist Edna Buchanan.
- Television: Reporter Robin Kish of CBS4
- Fund Development and Special Events: Gail Meltzer of Fund Raising Advantage
- Advertising, Marketing Agencies/Consultants: Kathy Koch of Ambit Marketing

- Nonprofit Communications: Josie Bacallao of Hispanic Unity of Florida
- Communications Technology and the Internet: Renee H. Frengut of eQualitativeResearch.com
- Communications Education: Kathleen Anderson of Palm Beach Atlantic University
- Public Relations Agencies/Consultants: Barbara Goldberg of O'Connell & Goldberg, Inc.

The awards recognize excellence within the disciplines of the communications industry for women working in Palm Beach, Broward and Miami-Dade counties.

All of the nominees demonstrate excellence and creativity in their field.

Entries were independently reviewed and judged by another Association for Women in Communications chapter.

Meredith Porte, producer of WLRN in Miami, was the emcee for the evening.

Sponsors were Maroone, Union Bank, GL Homes, Miami Herald, Sun-Sentinel, WLRN and Pierson Grant Public Relations.

The Association for Women in Communications is a professional organization that champions the advancement of women across all communications disciplines by recognizing excellence, and promoting leadership and positioning its members at the forefront of the evolving communications arena.

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TESTIMONIALS

"In most applications, the internet is still finding its way in the world of market research. The potential is surely there but few practitioners have tapped it. Count Renee Frengut as one of those pioneers. Where other organizations have achieved modest success in analoging on-line "traditional focus group methodology", her organization – eQualitativeResearch – transforms the experience. Yes, there are respondents; yes, there are moderators; yes, there are clients. But in many ways, clever software makes the cyberspace experience more adaptive, and yes, even more intimate, than the conventional "one-way mirror" bifurcated room. And best of all, you needn't travel the world to speak with the world; you needn't even leave home."

Dennis Q. Murphy
Former - Vice President,
World Wide Market Intelligence
IBM

"This technology is especially useful for conducting interviews with respondents in far-flung locations. No longer do we need to choose a few locations for a specific project. We can get respondents from anywhere and form a focus group. The group aspect works well since they can both see and hear each other and the moderator. After years of research travel, it's a blessing to make fewer trips and actually increase the geographic scope of each project. I intend to keep using it and it will be my first choice for interviewing hard to find respondents and many kinds of professionals."

From a market researcher at a large consumer products company

"While I did not have the opportunity to participate in the qualitative, I was eager to hear the observations. I think that you provided us with excellent food for thought and provided strong guidance on how we can rethink our current position. We certainly got "new news" from this exploration. I appreciate your insights."

From a Market Research Director at a large Pharmaceutical Company – Consumer Products Division

"We have used ethnographic research (or research that allows trained psychologists to interact with consumers in the privacy of their homes) to successfully gather rich insights on consumer behavior, but the logistical constraints of sending expensive expert staff to target consumer's homes across the country sometimes discourages us from doing this valuable work. With eQualitative Research's technology and approach, we would be able to conduct this research with less hassle."

Executive Director, Corporate Communications at a leading pharmaceutical company

"What I found most beneficial about the technology was the ability to listen and learn from people all over the country, without having to travel all over the country."

Senior Research Manager
Leading Advertising Agency

"Dr. Frengut's technology allows for all stakeholders to be a part of critical research and yet not leave the office. It is quite innovative."

From a senior Market Research Manager at a large Pharmaceutical Company – Consumer Products Division

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Appeal Brief

X. RELATED PROCEEDINGS APPENDIX

None